

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-035 Portable and temporary sources.** (1) For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location providing that the owner(s) or operator(s) notifies **ecology** or the **authority** of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable **ecology** or the **authority** to determine that the operation will comply with the **emission standards** for a **new source**, and will not cause a violation of applicable **ambient air quality standards** and, if in a **nonattainment area**, will not interfere with scheduled attainment of **ambient standards**. The permission to operate shall be for a limited period of time (one year or less) and **ecology** or the **authority** may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable **emission standards**. A temporary or portable source that is considered a **major stationary source** within the meaning of WAC 173-400-113 must also comply with the requirements in WAC 173-400-141.

(2) This section applies statewide except where an authority has its own rule regulating such sources.

(3) Fees relating to this section can be found in chapter 173-455 WAC.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-035, filed 8/15/01, effective 9/15/01.]

AMENDATORY SECTION (Amending Order 94-35, filed 9/13/96, effective 10/14/96)

**WAC 173-400-045 Control technology fees.** ~~((1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) of this section.~~

~~(2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by ecology.~~

~~(a) Basic RACT analysis and determination fee:~~

~~(i) Low complexity (the analysis addresses one type of emission unit) - one thousand five hundred dollars;~~

~~(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - seven thousand five hundred dollars;~~

~~(iii) High complexity (the analysis addresses more than five types of emission units) - fifteen thousand dollars.~~

~~(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - two thousand dollars.~~

~~(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:~~

~~(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - one thousand dollars; or~~

~~(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - two thousand dollars.~~

~~(3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology.~~

~~(a) Basic RACT review and determination fees:~~

~~(i) Low complexity (the analysis addresses one type of emission unit) - one thousand dollars;~~

~~(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - five thousand dollars;~~

~~(iii) High complexity (the analysis addresses more than five types of emission units) - ten thousand dollars.~~

~~(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - one thousand dollars.~~

~~(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:~~

~~(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than~~

~~ten tons per year of any toxic air pollutant - five hundred dollars, or~~

~~(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - one thousand dollars.~~

~~(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.~~

~~(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - three hundred fifty dollars.~~

~~(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - five hundred dollars.~~

~~(5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category.~~

~~(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):~~

~~(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - twenty-five thousand dollars;~~

~~(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - fifty thousand dollars; or~~

~~(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - one hundred thousand dollars.~~

~~(b) If an emission unit is being evaluated for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.~~

~~(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.~~

~~(d) Ecology may approve alternate methods for allocating the~~

~~fee among sources within the source category.~~

~~(6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business.~~

~~(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.~~

~~(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:~~

~~(i) By an authorized corporate officer in the case of a corporation;~~

~~(ii) By an authorized partner in the case of a limited or general partnership; or~~

~~(iii) By the proprietor in the case of a sole proprietorship.~~

~~(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.~~

~~(d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:~~

~~(i) Fifty percent of the RACT analysis and determination fee; or~~

~~(ii) Two hundred fifty dollars.~~

~~(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.~~

~~(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.~~

~~(8) Fee payments. Fees specified in subsection (4) (a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule-making effort is commenced as noted by publication of the CR101 form in the *Washington State Register*. A billing for the second half of the payment will be~~

~~mailed when the proposed rule is published in the Washington State Register. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.~~

~~(9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.~~

~~(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.~~

~~(11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.)) Fees can be found in chapter 173-455 WAC.~~

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-045, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, § 173-400-045, filed 8/15/94, effective 9/15/94.]

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

**WAC 173-400-104 Registration fees.** ~~((1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.~~

~~(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-099(2).~~

~~Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.~~

~~(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:~~

~~(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.~~

~~(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:~~

~~(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.~~

~~(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.~~

~~(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.~~

~~(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.~~

~~(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.~~

~~(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership.~~

~~In no case will a registration fee be reduced below two hundred dollars.~~

~~(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.~~

~~(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.~~

~~(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.~~

~~(10) Additional registration fee for fossil fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter.)) Fees can be found in chapter 173-455 WAC.~~

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-104, filed 1/10/05, effective 2/10/05. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-104, filed 11/22/00, effective 12/23/00. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-104, filed 3/22/95, effective 4/22/95.]

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

**WAC 173-400-116 New source review fees.** ~~((1) Applicability. Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee as required by the local permitting authority. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of review pursuant to WAC 173-400-720, second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section.~~

Fees assessed under this section shall apply without regard to whether an order of approval is issued or denied.

~~(2) **Basic review fees.** All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. The basic review fees are either (a) or (b) below:~~

~~(a) Basic new source review fees.~~

Source type	Clarifying criteria	Fee
Basic Review Fees		
Low complexity source	Emissions increase of individual pollutants are all less than one-half of the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of individual toxic air pollutants are all less than 2.0 tons/year	\$1250
Moderate complexity	Emissions increase of one or more individual pollutants are greater than one-half of, and less than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year	\$8000
High complexity	Emissions increase of one or more pollutants are greater than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than ten tons/year	\$18,000

~~(b) New source review fees for specific source categories.~~

Source type	Clarifying criteria	Fee
Dry cleaners		\$250
Gasoline stations		\$250



Source type		Clarifying criteria	Fee
Storage tanks			
	<20,000 gallons		\$250
	20,000=100,000 gallons		\$650
	>100,000 gallons		\$900
Chromic acid plating and anodizing identified in WAC 173-460-060			\$250
Solvent metal cleaners identified in WAC 173-460-060			\$250
Abrasives blasting identified in WAC 173-460-060			\$250
New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 173-401 WAC source or nonchapter 173-401 WAC source			\$250
Application for coverage under a general order of approval		WAC 173-400-560 and criteria included in a specific general order of approval	\$500
Nonroad engines			
Less than a total of 500 installed horsepower			\$500
More than 500 horsepower and less than a total of 2000 installed horsepower			\$900
More than 2000 horsepower and less than a total of 5000 installed horsepower			\$2000
More than 5000 horsepower and less than a total of 10,000 installed horsepower			\$4000
More than a total of 10,000 installed horsepower			\$7500

~~(c) Additional units. An owner or operator proposing to build~~

~~more than one identical emission unit shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.~~

~~(3) **Additional charges.** In addition to those fees required under subsection (2) (a) through (c) of this section, the following fees will be required as applicable:~~

~~(a) Major NSR actions under WAC 173-400-720 and 173-400-112.~~

Activity	Clarifying criteria	Fee
Prevention of significant deterioration review or increase in a PAL limitation	WAC 173-400-720	\$15,000
Establishing LAER and offset requirements	WAC 173-400-112	\$10,000
Establishing or renewal of clean unit status	Per 40 CFR 52.21(y)	\$1500
Pollution control project approval	Per 40 CFR 52.21(z)	\$1500
Establishment of a PAL	Per 40 CFR 52.21(aa)	\$4000
Renewal of a PAL	Per 40 CFR 52.21(aa)	\$4000
Expiration of a PAL	Per 40 CFR 52.21(aa)	\$12,000
PSD permit revisions		
All except administrative	WAC 173-400-750	\$10,000
Administrative revisions	WAC 173-400-750	\$1500

~~(b) Other actions.~~

Activity		Fee
Tier II toxic air pollutant impact review		\$10,000
Tier III toxic air pollutant impact review		\$10,000
Case-by-case MACT determinations		\$12,500

Activity		Fee
Fossil fueled electric generating unit	Applicability criteria found in chapter 80.70 RCW	Fees listed in rule implementing RCW 70.94.892 and chapter 80.70 RCW
Changes to existing orders of approval, Tier I review, Tier II review, or other action identified above:		
Activity		Fee
Modification to order of approval		50% of the fee charged in WAC 173-400-116 (2)(a)
Modification of Tier II approval		50% of the fee charged in WAC 173-400-116 (2)(b)

~~(4) **Small business fee reduction.** The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.~~

~~(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.~~

~~(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:~~

~~(i) By an authorized corporate officer in the case of a corporation;~~

~~(ii) By an authorized partner in the case of a limited or general partnership; or~~

~~(iii) By the proprietor in the case of a sole proprietorship.~~

~~(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.~~

~~(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:~~

~~(i) Fifty percent of the new source review fee; or~~

~~(ii) Two hundred fifty dollars.~~

~~(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.~~

~~(5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.~~

~~(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.~~

~~(7) Dedicated account. All new source review fees collected by the department shall be deposited in the air pollution control account.~~

~~(8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.~~

~~(9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.)) Fees can be found in chapter 173-455 WAC.~~

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-116, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-116, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-116, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, § 173-400-116, filed 8/15/94, effective 9/15/94.]

AMENDATORY SECTION (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-180 Variance.** Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to ecology for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which a local air pollution control authority has jurisdiction shall make application to that authority rather than ecology. Variances to state rules shall require ecology's approval prior to being issued by an authority. Ecology or the authority may grant such variance, but only after public involvement per WAC 173-400-171.

(2) **Full faith and credit.** Variances granted in compliance with state and federal laws by an authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

(4) Fees relating to this section can be found in chapter 173-455 WAC.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-180, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-180, filed 2/19/91, effective 3/22/91.]